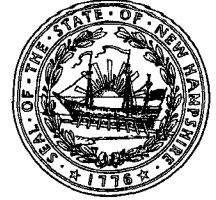




The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

**LETTER OF DEFICIENCY
WET 06-011**

January 31, 2006

Keith & Della Fulton
PO Box 369
East Lempster, NH 03605

RE: DES Wetlands File #2005-03068 Route 10, Lempster

Dear Mr. Fulton:

This letter is a follow up to your meeting with DES staff on January 20, 2006 at DES. As discussed, on November 29, 2005, personnel from the Department of Environmental Services ("DES") conducted an inspection of the above referenced property, more specifically referenced on Town of Lempster Tax Map 11 as Lot 250 (the "Property"). The purpose of the inspection was to determine compliance with RSA 485-A, RSA 482-A and NH Code of Admin. Rules Wt 100-800.

During the inspection the following deficiencies were documented:

1. A minimum of eight non-permitted wetland and surface water impacts were identified on the property as follows:
 - a. A road has been constructed through a wetland. The road was constructed to access gravel during the emergency response to the flooding in October 2005. As discussed with DES staff on January 20, 2006, a Standard Dredge and Fill permit is required to retain the wetland fill associated with this road. The wetland impact measures approximately 100 feet long and 20 feet wide. A ditch has been dug through the road to allow surface water to flow, however no erosion controls have been installed and silt and sediment is eroding into the adjacent wetland.
 - b. A snowmobile/ATV trail through the gravel pit has been constructed and also uses this road and the non-permitted crossing. The trail has been constructed on a slope in and adjacent to a wetland. A wetland crossing approximately 20 feet long and 10 feet wide was also observed.
 - c. Fill has been added to a road in the location of an existing road culvert. This is the first crossing on the north entrance of the gravel pit. The fill was unstable and eroded into the adjacent wetland and stream, resulting in approximately 1,000 square feet of deposition in the wetland and sedimentation to approximately 50 linear feet of the stream channel. No erosion controls were installed at this crossing.

d. The road on the east side has been extended along the area depicted as "Area 1" on the plans prepared by One Source Properties & Permitting, LLC and entitled "Fulton Excavation Site Off Route 10 Lempster, New Hampshire." Approximately 10,000 square feet of wetland has been filled as a result of the road extension on the northerly end of the road.

e. The old woods road on the southerly end of Area 1 has been widened and wetland areas adjacent to the road have been filled. Approximately 8,000 square feet of wetland has been impacted.

f. A culvert has been installed at the intersection of a driveway and south entrance to the gravel pit. The area adjacent to the outlet of the culvert has been graded and possibly filled. No erosion control measures have been installed and the culvert is discharging sediment and silty water into the adjacent wetland.

g. Approximately 4,000 square feet of wetland has been filled on the southwest corner of the driveway and gravel pit road intersection.

h. There is an existing culvert for a stream crossing on the access road leading to the gravel pit and driveway. The road surface at the crossing has recently been upgraded. Fill placed on the road was not stabilized and eroded into the stream and adjacent wetland. Sediment deposition was observed for approximately 30 linear feet in the stream channel and approximately 500 square feet in the adjacent wetland.

2. Alteration of terrain violations have occurred on both parcels. These areas have not been documented on the plans submitted with the Alteration of Terrain application.

In response, you are requested to take the following actions:

1. Immediately stabilize all road surfaces associated with the stream crossings referenced in Deficiencies (c) and (h) above and install appropriate erosion control measures.

2. Immediately install erosion and turbidity controls at the culvert referenced in Deficiency (a) above.

3. By May 1, 2006, submit a restoration plan to DES for review and approval. Have the restoration plan prepared by a certified wetland scientist, and include provisions for removing all sediment deposition in the streams and wetlands and removing the non-permitted wetland fill associated with the road and gravel pit expansions on the Property. Submit the following with the restoration plan:

a. A plan with dimensions, drawn to scale, showing:

1. Existing conditions, with wetland boundaries prior to impact; and
2. Proposed conditions after reestablishing the jurisdictional areas;

b. A detailed description of the proposed means of erosion control (silt fence, hay bales, etc) and stabilization of the restoration area;

- c. A detailed description of the proposed planting plan for the stabilization and revegetation of the restoration area and control of invasive species such as purple loosestrife (*Lythrum salicaria*) and common reed (*Phragmites australis*);
- d. A description of the proposed construction sequence and methods for accomplishing restoration and anticipated restoration compliance date.
- e. A description of the method of documenting at least 75% survival of all vegetation planted during the restoration project. This should include at a minimum monitoring progress reports for two successive growing seasons following completion of the restoration project.
- f. A provision to delineate the wetlands within the restoration site after 2 full growing seasons and document the delineation with data forms and depict the delineation on a site plan.

4. Retain a qualified wetland scientist to supervise the implementation of the restoration plan and to submit the restoration progress reports.

5. Implement the restoration plan only after receiving written approval and as conditioned by DES.

6. By May 1, 2006, submit a complete Standard Dredge and Fill application to retain approvable portions of the wetland fill on the property. Include provisions for retaining the impact described in Deficiency (a), above and installing a permanent crossing at this location.

7. By May 1, 2006, submit an amended plan showing all of the areas impacted for the Alteration of Terrain application. This plan shall include a wetland delineation done in accordance with Section F of the 1987 Army Corps of Engineers Wetlands Delineation Manual.

RSA 482-A, the New Hampshire Wetlands law, was enacted to protect and preserve wetlands and surface waters from unregulated despoliation. Prior to dredging, filling, or construction in and adjacent to wetlands or surface waters, an individual is required to obtain a permit. If work is done without a permit, this is considered a violation of RSA 482-A. Failure to respond to this Letter of Deficiency in a timely and complete manner may be construed as noncompliance by the receiving party.

DES personnel may conduct another inspection at a later date to determine whether you have come into and are maintaining full compliance with the applicable statute and rules.

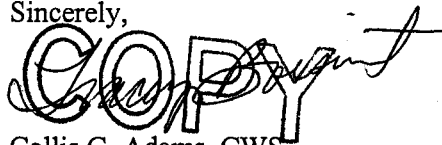
Issuance of this letter shall not preclude further enforcement by DES. Failure to comply with RSA 482-A will result in enforcement by DES, including but not limited to the issuance of fines, administrative orders, or referral to the New Hampshire Office of the Attorney General for prosecution of civil or criminal penalties. If an order is issued to you, it may also be recorded with the Registry of Deeds as an encumbrance against your property.

All documents submitted in response to this Letter of Deficiency should be addressed as follows:

Dawn Buker, Wetlands Compliance Specialist
Wetlands Bureau
Department of Environmental Services
29 Hazen Drive
PO Box 95
Concord, NH 03302-0095

Should you have any questions regarding this letter, or wish to arrange a meeting, please contact Dawn Buker at (603) 271-4066.

Sincerely,

A handwritten signature in black ink, appearing to read 'Collis G. Adams', is written over a large, bold, black 'COPY' stamp. The stamp is oriented vertically and has a slightly distressed or ink-like texture.

Collis G. Adams, CWS
Administrator
Wetlands Bureau

CERTIFIED MAIL # 7004 0750 0001 2419 3087

cc: Rene Pelletier, Asst. Director, Water Division
Gretchen R. Hamel, Administrator, DES Legal Unit
Lempster Conservation Commission
Lempster Board of Selectmen
USACOE
Dick Fraser, One Source Properties & Permitting, LLC